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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,401	02/07/2001	Micheal Barnum	BARN-0166	5256

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EXAMINER

MOSSER, KATHLEEN MICHELE

ART UNIT

PAPER NUMBER

3715

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/778,401	Applicant(s) BARNUM, MICHEAL	
	Examiner Kathleen Mosser	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

In response to the amendment filed 05/17/06, claims 1-23 are pending.

Claim Objections

1. Claims 11-20 and 23 are objected to because of the following informalities: Claim 11 recites the limitation "the telescoping legs" in line 3, there is insufficient antecedent basis for this limitation. Although it is clear the limitation refers to the "at least two legs capable of temporarily extending outwardly" consistent language is required throughout the claims. Appropriate correction is required.

Additionally, 37 CFR 1.75(i) states:

- (i) Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

In responding to this action, if a listing of the claims is required, claims complying with this element of 37 CFR 1.75 are requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Balolia (US 2002/0066780). Balolia teaches a device including: a first output device to provide information to the user of the kiosk, wherein the user perceives information from the first output device using a first sense (the

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display, which uses the sense of vision, element 24); a second output device to provide information to the user of the kiosk, wherein the user perceives information from the second output device using a second sense different from the first sense (the audio system. Element 42, which uses the sense of hearing), the first and second output device outputting the same information, such that a user unable to perceive information from the first output device using the first sense can perceive the same information from the second output device using the second sense (at least, paragraph 37); a first input device, wherein the user inputs information via the first input device using a physical action of a first body part (touch screen 24, which requires physical interaction of a hand as the first body part); a second input device, wherein the user inputs information via the second input device using a second physical action of a second body part (either one of eye tracking, keyboard or voice input systems) such that a user unable to input information via the first input device using the first physical action of the first body part can input the same information via the second input device using the second physical action of the second body part (at least paragraph 41); a storage device to retain information for output to the user and a recording device to record the information input by the user (non-volatile memory 36, see paragraph 45), as in claims 1 and 4. The system of Balolia is specifically used for balloting (claims 2 and 4), as is described throughout the specification. The memory component is described as being a hard drive (claims 3 and 9) is paragraph 64. The first input device is a touch screen (claim 5) as shown in the description of element 24. A third output device, wherein the voter perceives information from the third output device using a third sense, the third sense being different than that of the first and second sense (claim 6) is shown in claims 2 and 18 of the publication, as the tactile feedback system, which uses the sense of touch by definition. A third input device which allows the user to input ballot selection using a third physical action, which is different from the first and second physical actions (claims 7 and 8) is shown as either in the eye-tracking software described in at least paragraph 41. The recording device including a printer (claim 10) is described in paragraph 44. Regarding claims 21 and 22, the first input device of the Balolia system is a touch screen, which requires the user to manually select or point at items on the screen, thus requiring a hand motion of the user. The second input device of the system may be either an eye tracking system or a voice input device, each of which uses a physical action other than a hand motion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 11-13, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balolia (US 2002/0066780) in view of McKay et al (US 4451728).

Balolia teaches the aspects of the voting system which are related to the input, output and storage devices, in the manner shown with respect to claims 4-7, 9, and 22 above. Balolia further teaches that the kiosk should be placed in an enclosed booth with a curtain, see paragraph 42. Balolia fails to teach any of the specific about how such a booth should be constructed, as recited in claims 11.

McKay et al teaches a frame including a base, having atleast two legs capable of being temporarily extended outwardly (col. 2: 1-4); vertical rods extending upward from the base capable of being extended temporarily (Figure 18, 43); a canopy portion affixed to the vertical rods opposite the base, the canopy portion affixed to the vertical rods such that the canopy portion is raised when the vertical rods are extended (Figure 18); a box mounted on the frame, the box comprising a back face affixed to frame (43); a left face affixed frame; a right face affixed to the frame (Figure 18: 36 and 38); a

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front face (Figure 18 258-259) and an interior defined by the top face, the back face, the left face, the right face, and the front face (the interior of the device).

McKay does not teach the inclusion of a top face or wheels on each of the telescoping legs. The examiner takes OFFICIAL NOTICE that each of these components are well known in the art. It would have been obvious to one of ordinary skill in the art to include wheels on the ends of each of the legs of the McKay so as to allow for the easy movement of the booths about the polling place. The inclusion of a top face would aid in ensuring that the user had complete privacy while casting their ballots.

It would have been obvious to one of ordinary skill in the art to incorporate the voting booth of McKay into the system of Balolia so as to provide the user of the system with a private, curtained off area to cast their ballot, as suggested by Balolia.

4. Claims 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balolia (US 2002/0066780) in view of McKay et al (US 4451728) further in view of Trotta et al (US 5072999). McKay further teaches a telescoping curtain rod affixed to the canopy portion in Figure 18. Balolia and McKay fail to teach the inclusion of a first and second compartment within the box (claim 14) a space between the first and second compartment (claim 15), an auxiliary input device to ballot selection from peripheral devices (claim 16), the input devices being movably positioned using at least one adjustable support arm (claim 17). Trotta teaches a portable voting booth including multiple compartments for storing and using computer components in Figures 1-3. Multiple interior compartments, which are accessible via doors are shown in Figure 7. An input device, which is repositionable, is shown in col. 2: 65-68. It would have been obvious to one of ordinary skill in the art to incorporate the features of Trotta et al into the Balolia/McKay system so as to provide a secure, yet accessible area to store the computer components of the system.

Response to Arguments

5. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kathleen Mosser
Primary Examiner
Art Unit 3715

July 17, 2006